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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,320	09/24/2001	James W. Jacobs JR.	8177.006.00	5341

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MCKENNA LONG & ALDRIDGE LLP  
1900 K STREET, NW  
WASHINGTON, DC 20006

EXAMINER
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OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/960,320

Applicant(s)

JACOBS, JAMES W.

Examiner

Jonathan Ouellette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 2 is objected to because of the following informalities: the claim inappropriately reads, "a record the selected key performance indicators." Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
4. Claim 3 recites the limitation "the record of selected metric data" in the method of Claim 2. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international

application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. The rejection of Claims 1-20 under 35 U.S.C. 102(e) as being anticipated by Druckenmiller et al. (US 6,167,435) is withdrawn due to Applicant's arguments.
7. **Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Knight et al. (US 6,804,675 B1).**
8. As per **Independent Claims 1, 7, and 19**, Knight discloses a method for providing key performance indicators / metric data (C9, C10 L51-61, C11 L14-45, company performance information), to a subscriber via a subscription server and subscriber interface (C10-C11, user interactive online session), comprising: presenting a subscriber interface (C10-C11, user interactive online session); identifying in the subscriber interface subscription available from a plurality of information sources (C11 L14-45, Subject matter area); selecting a subset of the subscription in response to input from the subscriber interface (system collects subject matter information); identifying key performance indicators available from the subset of subscriptions in (C11 L14-45, system presents classifications); selecting key performance indicators from the selected subset of subscriptions in response to input from the subscriber interface (system collects narrowed classification information); and providing the selected key performance indicators via the user interface (C11 L14-45).
9. As per Claims 2 and 8, Knight discloses maintaining a record *of* the selected key performance indicators (C5 L10-15, maintaining interests of users).
10. As per Claims 3 and 9, Knight discloses updating the record of selected metric data if an information source corresponding to the metric data updates the metric data (C19 L5-27, Periodic update).

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11. As per Claims 4, 10, and 20, Knight discloses wherein the key performance indicators are maintained on at least one of the information sources separate from the subscriber server (C20 L28-40, External Data Sources – UseNet).
12. As per Claims 5 and 11, Knight discloses wherein the subscription server receives key performance indicators from the information sources via a communication media (C8, web-based system).
13. As per Claims 6 and 12, Knight discloses wherein the communication media is the Internet (C8, web-based system).
14. As per **Independent Claim 13**, Knight discloses a system for providing metric information to a subscriber (C9, C10 L51-61, C11 L14-45, company performance information), comprising: a subscription server for receiving information from a plurality of information sources in a standardized format, the subscription server having a user interface (C10-C11); and at least one communication connection by which the subscription server is capable of being contacted by a user and by which the subscription server is capable of receiving information from a plurality of information sources (C8, web-based system), wherein the user interface allows the user to select a subset of the information sources (C11 L14-45, Subject matter area / Classification information), the information sources remote from the subscription server and the subscription server receiving metric information from the information sources (C20 L28-40, External Data Sources – UseNet).
15. As per Claim 14, Knight discloses wherein the metric information is a key performance indicator (C9, C10 L51-61, C11 L14-45, company performance information).

16. As per Claim 15, Knight discloses wherein the at least one communication connection is made to the subscription server via the Internet (C8, web-based system).
17. As per **Independent Claim 16**, Knight discloses a system for providing metric information to a subscriber (C9, C10 L51-61, C11 L14-45, company performance information), comprising: a plurality of first subscription servers for receiving information from at least one first information source in a standardized format (C10-C11), at least one first communication path by which at least one of the first subscription servers is capable of receiving information from the at least one first information source in a standardized format (C8, web-based system); a second subscription server for receiving information from at least one of the first subscription servers (C8-C10, C20 L28-40), the second subscription server having a user interface (C8, web-based system); and at least one second communication path connection by which the second subscription server is capable of being contacted by a user wherein the user interface allows a the user to select a set of information sources from the first information source and second information sources (C10-C11), the second information sources remote from the second subscription server (C20 L28-40, External Data Sources – UseNet).
18. As per Claim 17, Knight discloses wherein the at least one first communication path is the Internet (C8, web-based system).
19. As per Claim 18, Knight discloses wherein the at least second communication path is the Internet (C8, web-based system).

***Response to Arguments***

20. Applicant's arguments filed 9/28/2006, regarding Claims 1-20, have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
23. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

jo  
October 25, 2006

JONATHAN OUELLETTE  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600

